

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

ALEXANDER HENDERSON,

v.

STATE FARM
INSURANCE COMPANY

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§

CIVIL ACTION NO. _____

JURY DEMANDED

**DEFENDANT STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY'S
NOTICE OF REMOVAL**

Defendant State Farm Mutual Automobile Insurance Company ("Defendant" or "State Farm"), incorrectly named as "State Farm Insurance Company," files this Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441, and 1446 as follows:

I. NATURE OF THE SUIT

1. This lawsuit arises from an auto theft claim made by Plaintiff under a personal auto insurance policy issued by State Farm to Patricia Walker. Plaintiff now files this breach of contract and bad faith action against State Farm, alleging breach of contract, common-law bad faith, and violations of the Texas Insurance Code. **See generally Exhibit C.**

II. PROCEDURAL BACKGROUND

2. On June 30, 2016, Plaintiff Alexander Henderson filed an Original Petition initiating an action in the County Court at Law No. 4 of Dallas County, Texas, bearing Cause No. CC-16-03248-D ("the State Court Action"). **See Exhibit C.** Defendant made a jury demand in the State Court Action. **See Exhibit E.**

3. Plaintiff's Original Petition was served on Corporation Service Company, registered agent for State Farm Mutual Automobile Insurance Company, on July 6, 2016.

Plaintiff incorrectly named “State Farm Insurance Company,” a non-existent entity. **See Exhibit D.**

4. Despite the improper naming, State Farm Mutual Automobile Insurance Company filed an answer in the State Court Action on July 28, 2016.

5. This Notice of Removal is timely filed under 28 U.S.C. § 1446(b)(1). This Notice of Removal is being filed within 30 days after Defendant’s receipt of actual notice of the State Court Action on July 6, 2016.

6. This Notice of Removal is also timely filed within one year after commencement of the State Court Action, in compliance with 28 U.S.C. § 1446(c)(1).

III. BASIS FOR REMOVAL

7. This Court has original diversity jurisdiction under 28 U.S.C. § 1332 over this civil action, and the action may be removed by State Farm pursuant to 28 U.S.C. § 1441(b), as it is a civil action between citizens of different states, and the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

8. According to Plaintiff’s state court pleadings, Plaintiff is a citizen of the state of Texas and resides in Dallas County. **See Exhibit C at ¶ 2.** Defendant State Farm Mutual Automobile Insurance Company is incorporated under the insurance laws of Illinois and maintains its principal place of business in Illinois, and thus is a citizen of Illinois for purposes of diversity jurisdiction. Because Plaintiff is a citizen of Texas and Defendant is a citizen of Illinois, complete diversity of citizenship exists among the parties.

9. Plaintiff’s Original Petition pleads damages of more than \$200,000. **See Exhibit C at ¶ 6.** Because the amount in controversy shown on the face of the pleadings exceeds

\$75,000, this Court has subject matter jurisdiction under 28 U.S.C. § 1332, and this removal is proper.

10. Removal to the Northern District of Texas, Dallas Division is proper because the state court action is pending in Dallas County, which is part of the Dallas Division.

11. In compliance with 28 U.S.C. § 1446(a) and Local Rule 81, State Farm files with this Notice of Removal: (a) an index of documents, (b) all process, (c) all pleadings asserting causes of action, (d) all orders signed by the state court judge, and (e) the state court docket sheet. **See attached Exhibits A-D.**

12. State Farm is separately filing its Corporate Disclosure in compliance with Local Rule 81.2, 3.1, and FED. R. CIV. P. 7.

13. In compliance with 28 U.S.C. § 1446(d), State Farm hereby certifies that it will promptly notify the clerk of the court in the State Court Action and all adverse parties of this removal.

IV. CONCLUSION AND PRAYER

14. The basis for this removal and this Court's jurisdiction is diversity of citizenship under 28 U.S.C. §1332 because Plaintiff is a citizen of Texas and Defendant is a citizen of Illinois. The amount in controversy, based on the face of the pleading, exceeds \$75,000, exclusive of interest and costs. As such, this removal is proper under 28 U.S.C. §1441. On these grounds, Defendant hereby removes the referenced State Court Action to this Court.

15. Defendant demands a jury in this removed action.

16. THEREFORE, Defendant State Farm Mutual Automobile Insurance Company respectfully requests that the above-entitled action be removed from the County Court at Law

No. 4 of Dallas County, Texas to the United States District Court for the Northern District of Texas, Dallas Division.

Respectfully Submitted,

/s/ Melinda R. Burke

Melinda R. Burke, Attorney in Charge
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of **Defendant State Farm Mutual Automobile Insurance Company's Notice of Removal** was served this 1st day of August, 2016 on the following counsel of record by the method specified:

Mr. Derrick J. Hahn HAHN LAW FIRM, P.C. 900 Jackson Street, Suite 180 Dallas, Texas 75202	<i>Via Facsimile: 214-744-3202</i>
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/s/ Amber R. Dunten
Amber R. Dunten